

Surface Mining Reclamation and Enforcement, Interior

§ 773.17

(g) The applicant has paid all reclamation fees from previous and existing operations as required by subchapter R of this chapter.

(h) The applicant has satisfied the applicable requirements of part 785 of this chapter.

(i) The applicant has, if applicable, satisfied the requirements for approval of a long-term, intensive agricultural postmining land use, in accordance with the requirements of §816.111(d) or §817.111(d).

(j) The operation would not affect the continued existence of endangered or threatened species or result in destruction or adverse modification of their critical habitats, as determined under the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

(k) The regulatory authority has taken into account the effect of the proposed permitting action on properties listed on and eligible for listing on the National Register of Historic Places. This finding may be supported in part by inclusion of appropriate permit conditions or changes in the operation plan protecting historic resources, or a documented decision that the regulatory authority has determined that no additional protection measures are necessary.

(l) For a proposed remining operation where the applicant intends to reclaim in accordance with the requirements of §816.106 or §817.106 of this chapter, the site of the operation is a *previously mined area* as defined in §701.5 of this chapter.

(m) For permits to be issued under §785.25 of this chapter, the permit application must contain:

- (i) Lands eligible for remining;
- (ii) An identification of the potential environmental and safety problems related to prior mining activity which could reasonably be anticipated to occur at the site; and
- (iii) Mitigation plans to sufficiently address these potential environmental and safety problems so that reclamation as required by the applicable requirements of the regulatory program can be accomplished.

(n) The applicant is eligible to receive a permit, based on the reviews

under §§773.7 through 773.14 of this part.

[48 FR 44391, Sept. 28, 1983, as amended at 65 FR 79663, Dec. 19, 2000]

§ 773.16 Performance bond submittal.

If the regulatory authority decides to approve the application, it shall require that the applicant file the performance bond or provide other equivalent guarantee before the permit is issued, in accordance with the provisions of subchapter J of this chapter.

[48 FR 44391, Sept. 28, 1983, as amended at 52 FR 4262, Feb. 10, 1987; 52 FR 17529, May 8, 1987; 53 FR 38890, Oct. 3, 1988; 54 FR 8991, Mar. 2, 1989; 59 FR 54353, Oct. 28, 1994; 60 FR 58491, Nov. 27, 1995; 62 FR 19458, Apr. 21, 1997; 64 FR 70837, Dec. 17, 1999; 65 FR 79663, Dec. 19, 2000. Redesignated at 65 FR 79663, Dec. 19, 2000; 66 FR 16127, Mar. 23, 2001]

§ 773.17 Permit conditions.

Each permit issued by the regulatory authority shall be subject to the following conditions:

(a) The permittee shall conduct surface coal mining and reclamation operations only on those lands that are specifically designated as the permit area on the maps submitted with the application and authorized for the term of the permit and that are subject to the performance bond or other equivalent guarantee in effect pursuant to subchapter J of this chapter.

(b) The permittee shall conduct all surface coal mining and reclamation operations only as described in the approved application, except to the extent that the regulatory authority otherwise directs in the permit.

(c) The permittee shall comply with the terms and conditions of the permit, all applicable performance standards of the Act, and the requirements of the regulatory program.

(d) Without advance notice, delay, or a search warrant, upon presentation of appropriate credentials, the permittee shall allow the authorized representatives of the Secretary and the State regulatory authority to—

(1) Have the right of entry provided for in §§842.13 and 840.12 of this chapter; and

(2) Be accompanied by private persons for the purpose of conducting an inspection in accordance with parts 840